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ABSTRACT

The protection of the student and prospective student at the postsecondary level is examined. Twenty-five possible educational abuses and concerns, such as discriminatory refund policies and misrepresentation, identified by the Federal Interagency on Education are listed. Ten issues selected as the thrust of the first National Conference on Consumer Protection in Education, held in March 1974, are outlined. Studies show that students expressed significant dissatisfaction with their education, citing such problems as lack of job placement and discrimination in hiring and salaries against minorities and women. Suggestions for the implementation of consumer protection are made for the federal, state, and private level. Areas in need of action (research; technical assistance to increase standards and awareness; information dissemination to school, agencies, and students; and coordination of efforts) are identified. (PHR)

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PRESENTATION

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January 12, 1975

AN OVERVIEW:
CONSUMER PROTECTION
IN
HIGHER EDUCATION
WHY? FOR WHOM? HOW?

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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HE 011 914

A 28-year old graduate student is refused readmission to his doctoral program at a large university after he failed a newly-required exam; he cannot determine his grade or take a second exam or transfer credits and two years of experience to another school.

A bright high school graduate asks a prestigious educational association about X College in the hopes of obtaining an objective assessment of the college's offerings, faculty and reputation; no one can or will respond to her straightforward questions because to do so might lose X College a customer.

A parent calls the local consumer voluntary association, seeking help in recovering at least part of her son's tuition paid to a school which rescheduled the desired course at a time when her son's military training begins; the school has no refund policy.

College catalogs suggest sexy, successful undergraduate environments. School tuitions are increased abruptly. Top professors teach only during the day although they are advertised as leading evening classes as well. These and many more serious problems are stirring consumer awareness and general concern in the educational marketplace.

These cases are real. Also real is the increasing opportunity for students to enter postsecondary education. The Congress has authorized billions of dollars to support institutions and programs. The Basic Educational Opportunity Grants and the recent Veterans education increases among others, provide direct support to the

individual student. The Department of Health, Education, and Welfare has followed the lead of the Veterans Administration, Department of Labor and other agencies in establishing broad guidelines and procedures so that Federal monies now support directly and indirectly, public and private, vocational and correspondence as well as higher education study. Significant increases in the number of community colleges and free universities further widen the choice of general and specific, short-term and long-range, liberal arts and professional skills training and education now available to a student who today might be 18 or 48 years old.

However, just as there is more student aid, more flexibility, more choice available to the student, there is also more deception and more disregard of individual needs, more defaults, more fast-buck artist and in general more abuse in the educational sector.

Education, notwithstanding its real importance and patriotic appeal, is an industry. And like any other industry has its share of self-serving, insensitive and unscrupulous operators. Until very recently, as we all know, education was considered sacred. Now with enrollments dropping two to four percent annually[1/] and costs increasing, the student is a valuable commodity.

1/ A Department of Commerce study, among others, indicates that of the approximately 3.4 million high school seniors the percentage definitely planning to attend college dropped from 45 percent to 42 percent in 1973. The proportion planning no further schooling increased from 14 percent to 18 percent.

Likewise, with more government monies available to support more students at more institutions there is more money to be had by some educational institutions. More opportunities lead to more abuses. Problems ranging from illegal advertising, abruptly changed policies and costs, loan defaults and general disregard of the consumer plague the entire educational marketplace as they do the traditional marketplaces.

A. Consumer Protection: Why?

The consumer movement has its roots in history. A recent law review article traced consumer fraud and the implied need for the consumer movement to the Old Testament where one of the Prophets acknowledges marketplace exploitation, "As a nail sticketh fast between the joinings of the stone, so doth sin stick close to buying and selling."[2/]

The consumer movement in more recent times has been based on the philosophical conviction that a free market economy where the market determines the price based on fair bargaining for supply and demand works fairly, and therefore best, when the supplier and purchaser come to the counter or to the bargaining table or to the classroom as respected equal participants.

The Prophet's "sin" actually covers a host of exploitative evils which destroy the fair and consequently free workings of the marketplace.

2/ Gilbert Geis and Herbert Edelhertz, "Criminal Law and Consumer Fraud: A Sociological View," American Criminal Law Review, XI (Summer 1973), p. 990.

The examples of real, present-day educational abuses cited earlier in this paper came to me during one day only last month. They indicate all is not well in the educational marketplace. In fact, educational complaints are rising significantly, and substantiate increasing abuses.[3/]

The national press in the past year has also begun to prick the awareness of the public with discussion and documentation of educational problems. The Boston Globe (March 25), New York Times (March 31), Saturday Review (April 6) and The Washington Post (June 23) have researched educational problems ranging from weaknesses in the accreditation and eligibility processes to poor or nonexistant job placement.

Congress has held several sets of hearings this summer and fall on accreditation, student loan defaults and general educational abuses.[4/]

Other documentation comes from the Federal government. Early in 1973 the Federal Interagency Committee on Education (FICE) established a Subcommittee on Consumer Protection in Education. This Subcommittee

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3/ Sandra L. Willett, "Who's in the Center of the Educational Marketplace?" Consumer Protection in Postsecondary Education: Preconference Papers, Education Commission of the States, Denver, March 1974, p. 82.

4/ Representative Floyd Hicks' Special Studies Subcommittee of the Committee on Government Operations (July), and Representative James O'Hara's Special Subcommittee on Education (July), Senator Vance Hartke's Committee on Veterans Affairs, and Senator Pell's Subcommittee on Education (September).

(of which I am an enthusiastic and aggressive member) has actively sought to identify educational abuses. In January 1973 the Subcommittee, drawing from the Accreditation and Eligibility Staff in the U. S. Office of Education, inventoried 25 possible educational abuses and concerns:

1. Degree mills.
2. Discriminatory refund policies.
3. Misrepresentation in selling, advertising, promotional materials, etc.
4. Abuse of federal programs of student assistance.
5. Lack of available jobs upon graduation.
6. Nondelivery of items or service contracted for.
7. Lack of provision for due process, appeal concerning injustices, etc.
8. Arbitrariness in administrative policies and procedures.
9. Severe and unwarranted regulation of student conduct, living arrangements, moral behavior, etc.
10. Imposition of noneducational requirements, such as certain religious practices and customs, upon students who do not wish to fulfill them.
11. Unrealistic academic requirements and practices, such as inaccurate grading systems, residence requirements, etc.
12. Imposition of unwarranted and sometimes unspecified fees and other charges.
13. Changing requirements during the life of the student's "contract" with the institution (e.g. changing degree requirements midstream).
14. Raising tuition abruptly and without adequate notice.
15. Excessively punitive charges for infractions such as loss of library books, lab equipment breakage, etc.
16. Holding up transcripts, diplomas, etc., for unwarranted reasons.
17. Lateness in obtaining qualified instructors, textbooks, equipment, classrooms, etc.
18. A host of minor frauds, such as: poor food in dining halls, inadequate academic or personal counseling service, inadequate student health service, listing of nonexistent faculty and courses in college catalogs, diversion of institutional resources to intercollegiate athletics and other luxuries, ineffective management of endowment and other assets, forcing faculty to subsidize education through low salaries, etc.
19. Use of outdated or obsolete equipment, textbooks, laboratories, etc.

20. Showing favoritism to individual or certain categories of students.
21. Administrative tolerance of outmoded practices such as student hazing, ritualistic destruction of property, etc.
22. Lack of adherence to promulgated standards, procedures, rules, regulations, etc.
23. Unwarranted substitution of contracted items (such as qualified professors, dormitory rooms, etc.).
24. Taking advantage of students because of their social status by using them as cheap labor, regularly requiring them to stand in long lines for registration, etc.
25. Overdoing the "in loco parentis" concept by direct and illegal interference with individual freedoms and human rights.

After further research, including the results of the first National Conference on Consumer Protection in Education of March 1974 (see pages 12 and 13 of this paper) we focused our major concerns on:

(1) misleading and inaccurate advertising.
(2) indiscriminate and overly aggressive recruiting.
(3) lack of full disclosure of salient institutional characteristics useful to the consumer, such as its history, financial policies, academic standards, and other relevant information.
(4) inferior facilities, course offerings, staff.
(5) false promises of job placement.
(6) insufficient refund policies (or failure to live up to stated policies).
(7) the delivery of programs of instruction which are different from those which both the student and student funding organization were led to expect.
(8) the use of educational funding programs for meretricious rather than educational purposes, whether through meaningless enrollment, nonattendance, default or misleading applications. (e.g., use of insured loans to induce students to enroll and borrow money which is then diverted either by students or others.
(9) the award of certificates, degrees, or diplomas based on payment of fees rather than on educational accomplishment; the enrollment of foreign students for the purposes of securing residency permits and other noneducational benefits.
(10) the claim to hold a degree, certificate, or diploma which has no standing or whose name is misleading or whose standards are known to be clearly or deliberately inferior to those in common use in the United States. (Degree mills, diploma mills).

These educational abuses, serious in their direct impact on the student and indirectly on the public, provided the impetus and starting point for the FICE Subcommittee's paper on the Federal role in educational consumer protection.[5/]

In addition to the Federal agencies, State education agencies, Attorneys General, consumer offices, private educational associations, student groups and the institutions themselves increasingly tell us that abuses exist in the multi-billion dollar education industry and that therefore consumer protection, voluntary and mandatory, is needed.

B. Consumer Protection: For Whom?

In the educational marketplace the student is the seeker of knowledge or skills and purchases education from a supplier to meet his needs. The student is therefore the consumer of educational services.

The student consumer invests not only his money -- personal, borrowed or granted. He commits extensive time and energy and hopes. Buying education is simply not equivalent to buying a refrigerator or a stereo or a vacuum cleaner, although frequently the purchase of these products is carried out with more care and research than is the purchasing of education. Buying education or training is investing

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5/ "A Federal Strategy Report for Protection of the Consumer of Education," Subcommittee on Consumer Protection, Federal Interagency Committee on Education, September 18, 1974. This report has been approved in principle. It is being forwarded to the Secretaries of each member agency for review and implementation.

money, time and hopes for which the consumer expects returns in the form of productive employment, social development, intellectual enrichment or personal satisfaction.

Since the student is the consumer of educational services, he is, like the consumer in the traditional marketplace, a critical participant in the buying of education. The abuses which substantiate the need for consumer protection hit the student consumer primarily and directly.

A recent evaluation funded by the National Institute of Education[6/] reveals significant dissatisfaction among graduates of both public and proprietary occupational schools. The results of this technical report are interesting because they document poor job placement and placement in jobs for which students did not train, discrimination in hiring and salaries against minorities and women, and general dissatisfaction among students of both public and private schools but particularly proprietary schools. The study recommends that strong consumer protection measures be carried out primarily by Federal, State and local governments, including reliable information disclosed on a timely basis to the student consumer, standards of educational effectiveness and truthful advertising.

In addition to the direct and primary consumer (the student) the general public (the taxpayer and indirect user of the educational system)

6/ Wilford W. Wilms, The Effectiveness of Public and Proprietary Occupational Training, Center for Research and Development in Higher Education, University of California, Berkeley, October 1974.

must also be protected against false claims and unethical behavior by institutions and deliberate disregard of loan repayment responsibilities by the student consumer. Senator Pell's hearings in September referenced a 1973 General Accounting Office estimate for the overall default rate on student loans as being almost 25 percent of the loans insured by the government. When a lender does not collect from a student consumer, the debt is collected indirectly from the taxpayer. The loan, however, may have been improperly made.[7/]

Government agencies which manage student aid, private and state agencies which accredit or approve schools, institutions which train students, school counselors, potential employers-- all these parties need to be protected along with the student consumer. Because the abuses are great, the need for consumer protection is likewise great. In one sense the purpose of educational consumer protection is to revive in the educational marketplace the convictions of the consumer movement that the educational marketplace can operate freely and fairly only to the extent that all parties are respected in the buying and selling process, and that all parties exercise their rights and responsibilities.

C. Consumer Protection: How?

The very serious answer to this question is "jointly." Every party to the problem is potentially party to the solution. In fact,

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7/ Remarks by Virginia H. Knauer, Special Assistant to the President for Consumer Affairs and Director of the Office of Consumer Affairs, before the Second National Conference on Consumer Protection in Postsecondary Education, November 14, 1974. The Office of Education has stressed that the overall gross default rate on the Federally Insured Student Loan Program is 23%, half of which is collected by OE making a net default rate of approximately 12%.

reform of the educational sector requires coordinated, thoughtful, vigilant action by a partnership of institutions, agencies and individuals.

Education is an industry. Like the retailers and oil producers and food processors, many educational institutions with the agencies and individuals who surround them are guilty of some devastating abuses. This point was brought out earlier in this paper. Unlike the more "traditional" industries, however, the educational sector has been slow to recognize both the blatant and subtle exploitation within its system (some companies have been made well aware of their consumer problems for decades). A second and more positive dissimilarity, on the other hand, is that when confronted with its abuses the educational sector seems to be able to move more quickly than other industries to find solutions. One reason for this quick response may be the fear of government regulation, but I believe that the vast majority of schools, colleges and universities are genuinely concerned about the educational consumer and the public trust which now more than ever are at stake.

Several events of the past year alone substantiate at least a growing awareness of the educational problems and at best some first-step solutions initiated in the educational sector.

1. Federal level

Two philosophical shifts are taking place: (a) the student is defined, and more and more accepted, as the direct consumer of educational services; and (b) educational abuse is viewed as the

responsibility to a large extent of the Federal government, no longer exclusively of the states or of the Office of Education, but also of the Veterans Administration, the Federal Trade Commission, the Social Security Administration, the Department of Labor, the Department of Justice, the Federal Aviation Administration and others.[8/] These philosophical shifts indicate that we have passed beyond the intellectual debate over definitions and have begun to concentrate on problems and solutions.

FICE and its active Subcommittee are excellent vehicles for attracting the attention and concerns of member Federal agencies and for proposing active solutions. The FICE strategy report, mentioned above, describes the past areas of agency responsibility, identifies present issues and implications, and recommends the acceptance of four principles and implementation of specific action steps for future solutions to educational abuse. The full report makes interesting reading; threatening for some agencies and institutions, and innocuous for some students and consumer leaders. Hopefully the report will spawn reform in partnership at many different levels.

FICE was also responsible for funding and coordinating the first National Conference on Consumer Protection in Education last March in Denver, Colorado. Under a grant from Federal agencies, the Education

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8/ Section II, pp. 13-30, "A Federal Strategy Report for Protection of the Consumer of Education," op. cit.

Commission of the States (ECS) organized a forum of 250 selected educators, Federal and state education officials, private accrediting executives, Congressional and State legislature officials, consumer leaders, counselors and school administrators and students. After a full day of carefully arranged workshops, the Conference participants reported in plenary session and to the public at large the major issues and abuses they (a real cross section) had identified and major recommendations urged to bring about solutions.[9/] Approximately half of the participants agreed in writing to initiate reform within a specific area and report to the second National Conference on Consumer Protection in Education funded again by the Federal agencies and sponsored by ECS.

The Second Conference was held in Knoxville in November 1974. Its purpose this time was to develop working approaches and feasible action steps to the problems identified in Denver. A selected group of 125 people, again representing a cross section of experiences, developed very meaty recommendations in the following areas: (a) protecting the student's financial interest, (b) information needs and systems, (c) institutional responses, (d) regulations, and (e) disclosure. The Conference participants recommended a Federal Tuition Insurance Corporation, policies of disclosure and refunds, prompt withdrawal of Federal eligibility and financial aid for

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9/ "Conference Report and Recommendations," Report Number 53, Education Commission of the States, Denver, June 1974.

offenders, a coordinated educational complaint center with "teeth," and many other types of action some of which were discussed at the Association of American Colleges annual meeting in January.

One significant accomplishment of the second conference on educational consumer protection was living up to the subtitle of the meeting -- A Federal, State and Local Partnership.

2. State level

Since much of the direct responsibility for education rests with the States (approval, licensing, funding, setting policy, etc.), the active participation of all States in educational reform is critical.

Many State authorities have risen to the challenge. ECS, sponsor of the two educational consumer protection conferences and the consumer-oriented model legislation developed to approve degree granting postsecondary institutions, is an important leader in educational consumer protection. Montana, Tennessee and North Carolina have approved the model legislation 10/

North Dakota, Wisconsin, Indiana, Ohio, Minnesota, Oregon, Washington, Florida and California lead in consumer-oriented improvements of State licensing procedures, accountability systems, disclosure

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10/ Section III, pp. 32-34, "A Federal Strategy Report for Protection of the Consumer of Education, " op. cit.

requirements, occupational information and investigations of individual schools accused of fraudulent practices.

The administration, faculty and students in some State universities, colleges and technical schools as well as State legislators (Senator Joseph Harder from Kansas and Representative Tom Jensen from Tennessee, among others) are encouraging consumer relations boards and more open policies at State institutions. This State impetus is needed.

State and local government consumer offices more and more bear the burden of complaint resolution. States like Wisconsin with a strong consumer protection component are using complaints as a data base to inform the public, apply pressure and propose corrective State legislation.

3. Private level

The path to educational consumer protection branches at this point to head off in the directions of: private accrediting agencies, for-profit vocational schools, non-profit institutions (both academic and occupational), educational associations, and consumer and student groups. Without the concern and input from these groups, progress made thus far and necessary in the immediate future would be vague talk.

To cite briefly a few examples of awareness and initial reform, let me mention only a partial listing of groups and some actions they are taking to improve the educational marketplace:

- Association of Independent Colleges and Schools with its developing complaint handling system;

- American Association of Higher Education and its attempts to link prospective students with accurate and appropriation information.

- A business college in Kentucky where the director personally canvasses and responds to student problems on a regular basis;

- American Council on Consumer Interests, three of whose leading members have publicized educational problems and initiated research and reforms at their institutions;

- The National Academy of Public Administration with its report on the use of private accreditation to determine institutional eligibility for Federal funds and its very serious proposal that an educational Consumers Union be founded to report impartially on colleges and schools; and the

- National Student Educational Fund and its Information Gap Project which is describing to policy makers what kinds of information students need.

Many educational associations are including consumer protection topics at their annual meetings in an effort to inform their speakers as well as their members about educational abuses, differing perspectives and interests, and, I hope, ways to forge a partnership to bring about reform in the educational marketplace.

D. Consumer Protection: More Work Required

The partnership in educational reform must move forward. There is work enough for everyone which must be accomplished in the immediate

future and longer-range period. Without coordination and aggressive action the educational abuses will multiply, more students will default, and more institutions will succumb to the competitive pressures of dropping enrollments, increasing costs, slick recruiting tactics, and irresponsible treatment of educational consumers.

In the immediate future several developments underway need to be finalized and applied to other parts of the country and to other institutions. For example, a student group in Oregon has developed a computer based system for gathering pertinent data on 95 percent of the occupations in Oregon and potential employment opportunities, thus proving the economic and technical feasibility of providing student consumers with relevant information on jobs.[11/] The Federal Trade Commission and the U. S. Office of Education have proposed regulations to protect consumers of proprietary, non-profit and public occupational and academic institutions. Although the audience and content of these sets of regulations are different, they both propose refund policies, disclosure and other protective measures. The educational and consumer press as well as consumer organizations such as Consumers Union and the FTC are now producing articles and consumer guides to increase consumer awareness of the educational marketplace and to help consumers select the appropriate educational program. The educational complaint proposal which I am working on with FICE

11/ Career Information System located at 247 Hendricks Hall, University of Oregon, Eugene 97403. The project is funded by the Fund for the Improvement of Postsecondary Education at HEW.

Subcommittee would include a standardized complaint form, a complaint and information center, and enforcement and "early warning" powers. Congress intends to hold additional hearings with an eye toward passing educational consumer protection legislation.

Other areas requiring immediate and longer-range action include: research to develop case studies of certain problems and a statistical base to understand the problems and costs more precisely; technical assistance to permit the strengthening of existing standards and development of greater consumer protection awareness and procedures; information to students regarding schools and potential employment, to Federal agencies on institutional and student behavior, to institutions on what innovations their counterparts are undertaking, and to legal and paralegal consumer and other organizations trying to resolve complaints and correct abusive practices; and coordination between the diverse but necessary partners to the solutions.

Although blatant and subtle exploitation exists, we are beginning to see some positive movement. We are becoming aware of the problems and of consumer rights and responsibilities in the educational marketplace. One nationally respected education reporter suggested to students that their predecessors used to worry about everything they always wanted to know about colleges but didn't dare ask. He advises students to ask.[12/] I would urge that all of us ask about and respond to educational abuses and thus get on with the business of consumer protection in education.

12/ Fred M. Hechinger, Saturday Review, April 6, 1974.